



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCS/145778

PRELIMINARY RECITALS

Pursuant to a petition filed December 07, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on January 08, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly determined that the Petitioner owes a monthly premium of \$82 for October, November and December, 2012 to continue her BadgerCare Plus eligibility.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Nikitia Howse
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. The Petitioner was employed at Community Retirement from August, 2010 – June, 2012. The Petitioner did not report termination from Community Retirement to the agency until August 6,

2012. Petitioner was employed at Community Retirement 68.30 hours/two weeks @ \$11.00/hour or \$751.30/two weeks.
3. The Petitioner was employed at The Jewish Home from June 22, 2012 – August, 2012. The agency received verification of Petitioner's employment and wages on June 19, 2012. The employment verification reported Petitioner's estimated weekly hours as 24.5 at \$10.85/hour and weekend shift of 7.5 hours @ \$11.10/hour.
 4. The Petitioner was employed part-time at Luther Manor beginning August 6, 2012. Her weekly hours were estimated by the employer at 38 hours/two weeks @ \$11.00 or \$418/every two weeks.
 5. The Petitioner was employed full-time at The Catholic Home in August, 2012.
 6. On August 17, 2012, the agency received verification that Petitioner's employment ended at The Jewish Home. The case was auto-updated for Luther Manor. The state wage record showed wages for Community Retirement. The case was pended for verification.
 7. On August 28, 2012, the Petitioner's case was updated in the agency's system but current employment information was incorrectly updated when the agency did not end the Petitioner's employment with The Jewish Home and Community Retirement. The agency also did not update Petitioner's employment with The Catholic Home.
 8. On August 29, 2012, the agency issued a Notice of Decision to the Petitioner informing her that as of October 1, 2012, she must pay a monthly premium of \$82 for BadgerCare Plus benefits. The premium was based on Petitioner's earned income of \$418/every 2 weeks from Luther Manor and \$751/every two weeks from Community Retirement.
 9. On November 23, 2012, the agency ended the Petitioner's employment with Community Retirement in its system.
 10. On November 28, 2012, the agency ended the Petitioner's employment with The Jewish Home in its system.
 11. The Petitioner paid an \$82 premium for October and November, 2012.

DISCUSSION

The 2011-13 Wisconsin State Budget, Act 32, required the Department to pursue eligibility changes to the Medicaid program. In order to comply with Wisconsin law and make the necessary eligibility changes, Wisconsin requested changes to its current BC+ waivers for families and childless adults. The Centers for Medicare and Medicaid Services (CMS) approved changes to BC+ policy which include premium reforms, Restrictive Re-enrollment (RRP) reforms, changes to the policy regarding access to health insurance and changes to the back dating policy. See BEPS/DFS Operations Memo no. 12-27, dated June 1, 2012, page 1, available online at <http://www.dhs.wisconsin.gov/em/ops-memos/2012/pdf/12-27.pdf>.

Effective with July, 2012 BC+ benefits, the Department began to use a sliding scale for determining premiums for non-pregnant, non-disabled adults with income over 133% of the Federal Poverty Limit (FPL). Under the old policy adults did not pay premiums unless income was over 150% of the FPL. See BEPS/DFS Operations Memo no. 12-25, dated April 27, 2012, page 2, available online at <http://www.dhs.wisconsin.gov/em/ops-memos/2012/pdf/12-25.pdf>. The April 27 Memo showed the scale for the premiums. For a family size of three, monthly income in the range of \$0 - \$2,115.80 would result in no premium for an adult; income in the range of \$2,115.81 - 2,386.84 would result in a premium between \$63 - 84.

Petitioner's income was incorrectly calculated by the agency in August, 2012 when it determined she was required to pay an \$82/month premium. The agency counted Petitioner's income from Community Retirement though there was an employment verification that her employment ended in June, 2012. The

agency did not count Petitioner's income from The Catholic Home where the Petitioner testified that she started employment in August, 2012. The agency properly counted the Petitioner's employment at Luther Manor. It is not disputed that the Petitioner's income changed effective January 1, 2013 so that she is no longer required as of January 1, 2013 to pay a premium in order to be eligible for benefits. The agency was unable to produce documentation of an employment verification from Community Retirement though case comments indicate that the agency received one and failed to properly process it. The agency was also unable to produce any verification regarding the Petitioner's employment with The Catholic Home other than pay statements from November, 2012.

CONCLUSIONS OF LAW

The agency did not properly calculate the Petitioner's income for October, November and December, 2012 when it determined that an \$82/month premium was required for BadgerCare Plus premiums.

THEREFORE, it is

ORDERED

That this matter is remanded to the agency to take all administrative steps necessary to determine the Petitioner's correct income for October, November and December, 2012; to determine, based on accurate income calculations, whether the Petitioner was required to pay a premium for BadgerCare Plus benefits and; if the Petitioner was required to pay a premium, how much she was required to pay for the period of October, November and December, 2012. The agency shall issue a Notice of Decision to the Petitioner regarding its revised determination. In addition, because the Petitioner paid \$82 in October and in November, the agency shall apply those payments to the newly determined premium, if any, and shall either invoice the Petitioner for any outstanding premium amount that is due or shall issue a refund to the Petitioner if she overpaid for that period. All of these actions shall be completed within 10 days of the date of this decision.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

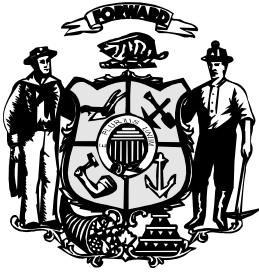
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson

Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 25th day of February, 2013

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on February 25, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability